

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEANNA HUGHES ET AL.,

Plaintiffs,

v.

CHRISS A. HESS, ET AL.,

Defendants.

Case No. 23-cv-01063-YGR

**ORDER GRANTING APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION**

Plaintiffs Deanna Hughes, Gerald Kinsel, Christine Coats, Kachina Moncrief, Jerome Wade, and Floyd Barrow, have filed their *ex parte* Application and Complaint for Injunctive Relief and supporting documents. (Dkt. Nos. 1, 2.) Plaintiffs served defendants through the San Rafael Clerk's Office on March 9, 2023. (Dkt. No. 7.) No response has been filed by defendants as of the time of this Order.

Having reviewed the application for Temporary Restraining Order and Preliminary Injunction, the Memorandum of Points and Authorities, submitted declarations, and the complaint, and good cause appearing, the Court **GRANTS** the application for a temporary restraining order.

Plaintiffs' moving papers indicate that they are either homeless or facing homelessness. They currently reside in tents and encampments in Albert Park in San Rafael, California. Defendants have notified plaintiffs that effective March 13, 2023, they will be forced to relocate or face citation and arrest. (Dkt. No. 2, Ex. G.) The moving papers indicate that the defendants' primary stated purpose is to make the park available for various recreational uses including baseball, bocce, and tennis. Other indications make reference to "health, safety, and welfare," but the factual presentation does not indicate any substantive basis underlying the statement.

Importantly here, movants indicate that expert sources anticipate that a storm surge will take place between now and at least March 13. As the Court writes, the National Weather Service is issuing warnings with respect to "heavy rains, strong winds, and possible flooding" for the local area. As courts have observed in similar cases, plaintiffs raise serious questions that the government will violate their constitutional rights, placing them in danger by forcing them to

move during severe weather. *Janosko et al. v. City of Oakland*, 3:23-cv-00035-WHO, N.D. Cal., Dkt. No. 18 (January 6, 2023); *Jeremiah v. Sutter Cnty.*, No. 218CV00522TLNKJN, 2018 WL 1367541, at *5 (E.D. Cal. Mar. 16, 2018). Thus, temporary relief is warranted. It is unclear whether any relief, beyond temporary, is requested.

The Court **ORDERS** as follows:

TEMPORARY RESTRAINING ORDER

Pending hearing on the Order to Show Cause and the Court's resolution of that Order, defendants and their agents, assigns and/or transferees, are immediately restrained and enjoined from preventing plaintiffs or others from camping in Albert Park.

APPLICATION TO PROCEED IN FORMA PAUPERIS

1. The Court GRANTS plaintiffs Kachina Moncrief and Dianna Hughes' applications to proceed in forma pauperis. (Dkt. Nos. 4, 5.)
2. The Clerk is **ORDERED** to issue summons.
3. The U.S. Marshal shall serve, without prepayment of fees, a copy of the complaint, any amendments, attachments, scheduling orders and other documents specified by the Clerk, plaintiff's affidavit and this order upon the defendants. Proof of such service shall be filed no later than **Monday, March 13, 2023**.
4. The Clerk shall mail a copy of this order to plaintiffs' given address:
Deanna Hughes, 30 Novato Street, #157, San Rafael, CA 94901 and shall send a courtesy email with this order attached to plaintiff's email addresses, as stated in the complaint (Dkt. No. 1.).

ORDER TO SHOW CAUSE

TO ALL PARTIES:

EACH PARTY IS ORDERED TO SHOW CAUSE as to whether a preliminary injunction should be entered for relief beyond **Monday, March 20, 2023**, namely an order to restrain and enjoin defendants and their agents, assigns and/or transferees, from clearing encampment(s) from Albert Park after such date.

IT IS FURTHER ORDERED THAT,


1. Each party shall respond to the Order to Show Cause by no later than **Wednesday, March 15, 2023.**
2. Any written reply thereto shall be filed no later than **Friday, March 17, 2023 at 3:00 p.m.**
3. Hearing on the Order to Show Cause for Preliminary Injunction shall be held on at **1:00 p.m. on Monday, March 20, 2023** in Courtroom 1 of the United States Courthouse located at 1301 Clay Street in Oakland, California.

The Court will entertain a modified schedule for briefing and hearing, and extension of the temporary restraining order, if presented by stipulation of the parties.

FURTHER, to the extent that an informal resolution will resolve the matter, this action is **REFERRED** to Magistrate Judge Robert Illman for settlement purposes.

IT IS SO ORDERED.

Dated: March 9, 2023


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

cc: Magistrate Judge Robert Illman